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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,527	06/11/2007	Chris Henri	505525	4329

53609 7590 09/01/2009  
REINHART BOERNER VAN DEUREN P.C.  
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ROCKFORD, IL 61107

EXAMINER
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GRAHAM, MARK S

ART UNIT	PAPER NUMBER
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3711

NOTIFICATION DATE	DELIVERY MODE
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09/01/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RockMail@reinhardtllaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,527	<b>Applicant(s)</b> HENRI, CHRIS	
	<b>Examiner</b> Mark S. Graham	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8 and 10-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 14-25 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 8 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 3 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 8, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borsdorf. Borsdorf's cue with its more tapered tip portion transitioning non-linearly into a less tapered portion meets the limitations of the claims with the exception of the length of the cue. However, the examiner takes official notice that pool cues commonly extend to longer than 14 inches. It would have been obvious to one of ordinary skill in the art to have formed Borsdorf's cue of a length longer than 14 inches as well to enable it to be used properly. The non-linear portion of Borsdorf's cue may be considered the first 14 inches of the cue which includes the tapered tip portion transitioning non-linearly into the less tapered portion.

Concerning claim 4, Borsdorf's more sharply tapered tip end will be more flexible than it would have been if the taper before the transition had been continued until the tip end because the tip end portion has a reduced diameter relative to what it would have been.

Regarding claim 10, the examiner takes official notice that wood is commonly used to form cue sticks. It would have been obvious to one of ordinary skill in the art to have done the same with Borsdorf's cue stick as well to use a technology known and proven in the art with a predictable result of success.

With regard to claim 12, all portions of Borsdorf's non-linear tapered section have a continuously curved cylindrical profile.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borsdorf in view of McCarty. Borsdorf obviates the claimed cue for the reasons explained in the claim 1 rejection with the exception of the cue increasing in diameter through the butt end. However, as disclosed by McCarty it is known to increase the diameter of the butt end of the stick continuously. It would have been obvious to one of ordinary skill in the art to have done the same with the butt end of Borsdorf's cue as well if such a tapered butt end grip was preferred by the player.

Applicant's arguments with respect to claims 1, 2, 4, 8, 10, 11, and 12 have been considered but are moot in view of the new ground(s) of rejection.

Claims 3 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5 and 14-25 are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Mark S.

Graham at telephone number 571-272-4410.

MSG  
8/27/09

/Mark S. Graham/  
Primary Examiner, Art Unit 3711